

REMARKS

Claims 1-17 are pending in this application and claims 1-17 stand rejected. Claim 1 was amended to correct a typographical error. New claims 18-20 have been added.

The Examiner has noted that each first line of the specification as originally filed is unreadable due to holes “punched” therein. In Appendix A of this response, Applicant submits a substitute specification. The substitute specification includes no new matter.

In paragraph of the Office Action, the Examiner rejected claims 1-17 under 35 U.S.C. § 103(a) as being unpatentable over Kelly in view of Shimawaki *et al.* Applicant traverses these rejections.

35 U.S.C. § 103(c) states:

(c) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section **where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.**

The Kelly patent was filed on January 31, 2000 and issued on April 29, 2003. Thus, the Kelly patent qualifies as prior art under 102(e)(2) because it is “a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent....” 35 U.S.C. § 102(e).

The subject matter of the Kelly patent was assigned to Oak Technology, Inc. on January 21, 2000. The present application was filed on May 23, 2000, and was assigned to Oak Technology, Inc. on May 17, 2000. The assignments for the Kelly patent and the present application are attached hereto for the Examiner’s convenience.

Based on the foregoing, the Kelly patent cannot be used by the Examiner to preclude patentability under 35 U.S.C. § 103(a), because all the conditions of 103(c) are satisfied. The withdraw of Kelly as a prior art reference vitiates any rejection of claims 1-17 under 35 U.S.C. § 103(a). Applicants respectfully request withdrawal of the rejections of claims 1-17 and allowance of claims 1-17, as originally filed.

Nor does Shimawaki taken alone provide a sufficient basis for rejection under 35 U.S.C. §§ 102 or 103. Shimawaki discloses a bit error rate measurement apparatus, which compares a test pattern with an input bit stream to generate a bit error detection signal. The

bit error detection signal is received by an error counter for counting bit errors. Col. 2, lines 52-68.

Shimawaki fails to disclose or suggest various limitations of claims 1, 8 and 10. For example, Shimawaki fails to disclose or suggest "an error detector to identify the occurrence of at least one error type in a stream of multiplexed error signals," (claim 1) "an error detector to identify the occurrence of an error type in a stream of multiplexed error data derived from a Cross-Interleaved Reed-Solomon Code," (claim 8) and the step of "receiving a stream of multiplexed error flag signals containing information corresponding to at least one error detection scheme." (claim 10).

The failure of Shimawaki to disclose or suggest all of the limitations of claims 1, 8 and 10 vitiates any grounds for rejections under 35 U.S.C. §§ 102 and 103. Applicant requests allowance of claims 1, 8 and 10, as originally filed.

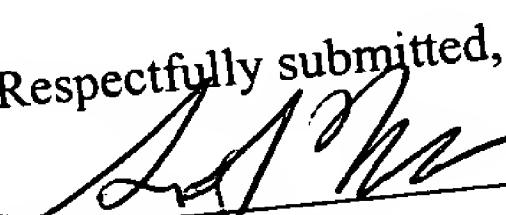
Claims 2-7, 9, and 11-17 depend from claims 1, 8 and 10, respectively, and include all the limitations of claim 1, 8 and 10. Therefore, claims 2-7, 9 and 11-17 are allowable for at least the same reasons as claims 1, 8 and 10, and for the additional subject matter contained therein.

New claims 18-20 have been added and find support in the specification as originally filed.

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney at (650) 849-7715, if a telephone call could help resolve any remaining items.

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Respectfully submitted,

  
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